RECORD AND BRIEFS

No. 16-466

FILED
APR - 7 2017

In The

Supreme Court of the United States

BRISTOL-MYERS SQUIBB COMPANY,

Petitioner,

v.

SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF SAN FRANCISCO, *et al.*,

Respondents.

On Writ Of Certiorari To The California Supreme Court

BRIEF OF PROFESSORS OF CIVIL PROCEDURE AND FEDERAL COURTS AS *AMICI CURIAE* IN SUPPORT OF RESPONDENTS

ALLAN IDES
Counsel of Record
919 Albany Street
Los Angeles, California 90015
(323) 793-6845
allan.ides@lls.edu

COCKLE LEGAL BRIEFS (800) 225-6964
WWW.COCKLELEGALBRIEFS.COM

TABLE OF CONTENTS

Page

Interest of the *Amici Curiae* 1

Summary of Argument 1

Argument 2

I. The California Supreme Court's Decision Comports with the Established Standards of Due Process 2

II. A Decision Reversing the California Supreme Court Would Substantially Curtail Nationwide and Multi-State Class Actions 16

Conclusion 17

APPENDIX

Appendix: List of *Amici Curiae* ..... App. 1

TABLE OF AUTHORITIES

Page

CASES

Action Embroidery Corp. v. Atlantic Embroidery, Inc., 368 F.3d 1174 (9th Cir. 2004) 13, 14

Al Rushaid v. Pictet & Cie, 68 N.E.3d 1 (2016) 5

Avocent Huntsville Corp. v. Aten Intern. Co., Ltd., 552 F.3d 1324 (Fed. Cir. 2008), *cert. denied*, 557 U.S. 904 (2009) 14

Beydoun v. Wataniya Restaurants Holding, Q.S.C., 768 F.3d 499 (6th Cir. 2014) 5

Bristol-Myers Squibb Co. v. Superior Court, 1 Cal.5th 783 (2016) 1, 7, 8, 9, 10

Burger King Corp. v. Rudzewicz, 471 U.S. 462 (1985) 6

Daimler AG v. Bauman, 134 S. Ct. 746 (2014) 4, 5, 6

ESAB Group, Inc. v. Centricut, Inc., 126 F.3d 617 (4th Cir. 1997), *cert. denied*, 523 U.S. 1048 (1998) 14

Goodyear Dunlop Tires Operations, S.A. v. Brown, 131 S. Ct. 2846 (2011) 4

Harris Rutsky & Co. Ins. Services, Inc. v. Bell & Clements, Ltd., 328 F.3d 1122 (9th Cir. 2003) 5

Helicopteros Nacionales de Colombia, S.A. v. Hall, 466 U.S. 408 (1984) 6

International Shoe Co. v. Washington, 326 U.S. 310 (1945) ..... *passim*

TABLE OF AUTHORITIES – Continued

Page

IUE AFL-CIO Pension Fund v. Herrmann, 9 F.3d 1049 (2d Cir. 1993), *cert. denied*, 513 U.S. 822 (1994) 14

Kerry v. Din, 135 S. Ct. 2128 (2015) 3

Milliken v. Meyer, 311 U.S. 457 (1940) 3

Nowak v. Tak How Investments, Ltd., 94 F.3d 708 (1st Cir. 1996), *cert. denied*, 520 U.S. 1155 (1997) 5

O'Connor v. Sandy Lane Hotel Co., Ltd., 496 F.3d 312 (3d Cir. 2007) 5

Oetiker v. Werke, 556 F.2d 1 (D.C. Cir. 1977) 14

Poe v. Ullman, 367 U.S. 497 (1961) 3

Robinson Engineering Co., Ltd. Pension Plan & Trust v. George, 223 F.3d 445 (7th Cir. 2000) 14

Robinson v. Penn Cent. Co., 484 F.2d 553 (3d Cir. 1973) 14

United Mine Workers v. Gibbs, 383 U.S. 715 (1966) 12, 14

United States v. Botefuhr, 309 F.3d 1263 (10th Cir. 2002) 14

STATUTES & RULES

28 U.S.C. §§ 1367(a) & (c) 12

Federal Rule of Civil Procedure 23 16

TABLE OF AUTHORITIES – Continued

Page

ARTICLES

Roscoe Pound, *Courts and Legislation*, 7 Am. Pol. Sci. Rev. 361 (1913) 10

Charles W. "Rocky" Rhodes & Cassandra Burke Robertson, *Toward a New Equilibrium in Personal Jurisdiction*, 48 U.C.D. L. Rev. 207 (2014) 13

OTHER

WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY (1993) 3

INTEREST OF THE *AMICI CURIAE*

This brief is written on behalf of a group of law professors who teach and write in the areas of Civil Procedure and Federal Courts. *See* Appendix (listing *amici curiae*). Our goal is to promote a coherent and workable approach to personal jurisdiction that is consistent with this Court's precedents and with the fundamental principles of due process.*

SUMMARY OF ARGUMENT

The decision of the California Supreme Court in *Bristol-Myers Squibb Co. v. Superior Court*, 1 Cal.5th 783 (2016), is fully consistent with the due process standards recognized by this Court in *International Shoe Co. v. Washington*, 326 U.S. 310 (1945), as well as with recent doctrinal developments applying and elaborating those standards. The state high court's "substantial connection" standard bridges the jurisdictional lacuna between specific and general jurisdiction and thus comports with "traditional notions of fair play and substantial justice." *Id.* at 316. In addition, that standard operates in a manner that is fully consistent

* Petitioner and Respondents have issued a general consent to the filing of *amicus* briefs. No counsel for a party authored this brief in whole or in part, and no party or counsel for a party made any monetary contribution intended to fund the preparation or submission of this brief. Loyola Law School, Los Angeles, California, paid the cost of printing and filing this brief. No other person or entity made any monetary contribution to the preparation or submission of this brief.

with the practices and principles of the federal common law doctrine of pendent personal jurisdiction. We, therefore, urge this Court to affirm the decision of the California Supreme Court. To rule otherwise could have a significant and untoward effect on all forms of multistate and nationwide collective actions.

ARGUMENT

I. The California Supreme Court's Decision Comports with the Established Standards of Due Process

The suit filed against Bristol-Myers involves two sets of plaintiffs, those who are residents of California and those who are not. The resident plaintiffs' claims are centered on activity undertaken by Bristol-Myers in California. The courts of California clearly have personal jurisdiction over Bristol-Myers with respect to those claims, and no challenge has been made to the exercise of that jurisdiction. The claims of the non-resident plaintiffs, however, are the product of related activity undertaken by Bristol-Myers in states other than California. The question is whether the courts of California may exercise personal jurisdiction over Bristol-Myers with respect to those non-resident claims. The California Supreme Court answered that question in the affirmative. We agree.

A.

The Due Process Clause requires fairness and reason in the exercise of government power. That demand finds its origin in Magna Carta's law-of-the-land principle, which was, in effect, a proscription against arbitrary government action.[1] In the context of personal jurisdiction, the core principles of due process are reflected in the judicial commitment to honor "traditional notions of fair play and substantial justice." *International Shoe Co. v. Washington*, 326 U.S., at 316 (1945) (*quoting Milliken v. Meyer*, 311 U.S. 457, 463 (1940)). A "notion" is a conception or an idea about something.[2] Thus, a traditional notion of fair play and substantial justice connotes deeply held conceptions of fairness and justice, and not simply an obeisance to past practices. In approaching due process, therefore, we should also be mindful of "what history teaches are the traditions from which [this country] developed as well as the traditions from which it broke. That tradition is a living thing." *Poe v. Ullman*, 367 U.S. 497, 542 (1961) (Harlan, J., dissenting).

Consistent with the fair-play and substantial-justice standards, the *International Shoe* Court described a range of potential circumstances that would satisfy due process beyond the traditional categories: the commission of a single but substantively relevant act in the forum, the engagement in continuous and

---

[1] Kerry v. Din, 135 S. Ct. 2128, 2132-33 (2015).

[2] WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1545 (1993).

systematic activity in the forum giving rise to or related to the claim, and the engagement in continuous and systematic activity in the forum that was "so substantial" as to justify the exercise of jurisdiction over claims unrelated to that activity. From the foregoing description, we can see an inverse relationship between meaningful contacts and relatedness: as the contacts increase, the relatedness component relaxes, to the point of disappearing entirely once the contacts become "so substantial." The spectrum is fluid, and it is to be applied from a perspective of reasonableness that is dependent on the specific circumstances of the case.

The modern law of personal jurisdiction has reduced *International Shoe*'s fluid spectrum to a mechanical, bright-line distinction between "specific" jurisdiction, which embraces the first two *International Shoe* categories, and "general" jurisdiction, which embraces the third. *See Goodyear Dunlop Tires Operations, S.A. v. Brown*, 131 S. Ct. 2846, 2853 (2011) (describing specific jurisdiction as embracing two separate scenarios: single-act and continuous-and-systematic); *Daimler AG v. Bauman*, 134 S. Ct. 746, 754 (2014) (same). Both specific jurisdiction and general jurisdiction require that the non-resident defendant have engaged in purposeful activity in or directed toward the forum state. Specific jurisdiction also imposes a relatedness requirement that is often (but not exclusively) described as being premised on some type of causal link between the purposeful contacts and the claim, ranging from a but-for to a proximate-cause standard, though the

phrase "related to" would seem to suggest a less rigid formula.[3] General jurisdiction imposes no such relatedness requirement. In determining whether general

---

[3] Despite the Petitioner's insistence to the contrary, this Court has yet to define the scope of the relatedness requirement and has certainly not endorsed any specific causation standard. Daimler AG v. Bauman, 134 S. Ct. 746, 754 (2014) ("arises out of *or relates to*") (emphasis supplied); *cf.* Brief for the Petitioner, at 17-22 (insisting that this Court has adopted a proximate cause standard). In essence, the Petitioner consistently makes the error of assuming that the sufficient establishes the necessary and fails to see the apparent distinction between "arises out of" and "relates to." Lower federal courts have recognized the lack of instruction from the Court and have recognized a range of relatedness possibilities that operate within a causative chain between the contacts and the claim. That range begins with a minimal cause-in-fact requirement – a but-for test – and extends to a more rigorous legal-cause requirement – proximate cause or substantive relevance. *See, e.g.*, Harris Rutsky & Co. Ins. Services, Inc. v. Bell & Clements, Ltd., 328 F.3d 1122, 1131-32 (9th Cir. 2003) (endorsing but-for standard); Beydoun v. Wataniya Restaurants Holding, Q.S.C., 768 F.3d 499, 506-08 (6th Cir. 2014) (endorsing a proximate-cause standard). Between these endpoints is a middle-ground standard, in which the contacts satisfy the but-for standard but are not substantively relevant to the claim. As to this middle ground, the due-process adequacy of the contacts depends on whether those contacts render suit in the forum fair or reasonable. The measure is sometimes stated in terms of foreseeability of suit in the forum and sometimes as a product of the reciprocal benefits and burdens of doing business there. *See, e.g.*, O'Connor v. Sandy Lane Hotel Co., Ltd., 496 F.3d 312, 321-24 (3d Cir. 2007) (endorsing middle-ground approach premised on reciprocal benefits and burdens); Nowak v. Tak How Investments, Ltd., 94 F.3d 708, 716 (1st Cir. 1996) (endorsing a middle-ground approach based on foreseeability of suit in the forum), *cert. denied*, 520 U.S. 1155 (1997). State courts, on the other hand, have sometimes found relatedness outside of the causal chain. *See, e.g.*, Al Rushaid v. Pictet & Cie, 68 N.E.3d 1, 11 (2016) (a "relatively permissive"

jurisdiction may be exercised, this Court has reduced *International Shoe*'s "so substantial" standard to a very strict "at home" metaphor that mirrors the traditional domicile basis of jurisdiction. *Daimler AG v. Bauman*, 134 S. Ct. at 751. The at-home standard has made it extraordinarily difficult to establish general jurisdiction, even where considerations of fairness and efficiency would overwhelmingly support its exercise.

The consequence of these doctrinal developments, including an apparent preference for some form of causation, has been to create a jurisdictional lacuna between specific and general jurisdiction where the purposeful contacts may be truly substantial but nonetheless inadequate to satisfy either standard, due either to a lack of a causal relatedness or to a failure to satisfy the at-home metaphor. But, as we explain below, denying jurisdiction under such circumstances would be to stamp as unconstitutional a practice that readily comports with fair play and substantial justice as so recognized by this Court in *International Shoe*.[4]

---

standard that "does not require causation" in context of state long-arm statute).

[4] The lacuna can be seen as a product of treating both aspects of specific jurisdiction – single-act and continuous-and-systematic – as raising identical due process concerns. That approach, however, fails to account for the context-specific principle of due process. Nor is it consistent with the oft-used phrase, "arise out of or relate to," Burger King Corp. v. Rudzewicz, 471 U.S. 462, 472-73 (1985), *quoting* Helicopteros Nacionales de Colombia, S.A. v. Hall, 466 U.S. 408, 414 (1984), which appears to recognize a broader spectrum of relatedness that ranges beyond causation.

B.

Petitioner is correct that no activity undertaken by Bristol-Myers in California falls within the causative chain of the claims asserted by the non-resident plaintiffs. Indeed, the California Supreme Court disclaimed any reliance on even a minimal cause-in-fact requirement in upholding the exercise of personal jurisdiction.[5] That disclaimer may place the state high court's version of relatedness somewhat outside the mainstream, yet it is quite consistent with the linguistic distinction between "arises out of" (a causal link) and "related to" (a non-causative link). It is also clear that although Bristol-Myers has substantial purposeful contacts with the State of California, the company is not "at home" there under current standards. Hence, under a mechanical, hornbook approach to minimum contacts, the assertion of jurisdiction over Bristol-Myers may seem unusual or even questionable.

However, the rigid approach endorsed by the Petitioner is neither required by precedent nor readily inferred from principle. Rather, we think jurisdiction over the non-resident claims against Bristol-Myers ought to be – and easily can be – sustained under the core due process principles of fairness and reason. While the constructed and constricted categories of specific and general jurisdiction may be useful tools in conventional cases, they are not substitutes for the principles they were meant to serve. And the notion

---

[5] *Bristol-Myers*, 1 Cal.5th, at 650.

that there should be a jurisdictional lacuna in the *International Shoe* spectrum runs against the grain of a flexible, fluid, and sensible law of due process. To value the doctrinal categories over the foundational principles on which they rest is to elevate an arid formalism over a realistic appraisal of the facts, while at the same time demeaning the pragmatic balancing of interests required by the due process of law. Where, as here, the Petitioner's activities are "continuous and systematic," the relationship requirement must be understood as serving the conception of "fair play and substantial justice," rather than as imposing an artificial "causation" barrier to the efficient resolution of controversies that implicate significant state interests.

C.

The California Supreme Court based its finding of relatedness on the non-causal, factual relationship between the claims asserted by the resident plaintiffs and those asserted by the non-resident plaintiffs. Both sets of claims involved essentially identical allegations of the manufacture of a dangerous and defective drug – Plavix – and a unified nationwide marketing and distribution scheme targeting consumers – television, magazine, and internet advertising – that falsely and fraudulently promoted the sale of that drug.[6] There was no suggestion that either the drug or the marketing plan varied from state to state. Hence, the only difference between the claims of the resident plaintiffs

---

[6] *Id.* at 652-53.

and those of the non-resident plaintiffs was the location of the sale and use of the drug. In short, both sets of claims arose from the common core of the defendant's manufacture of Plavix and the nationwide marketing and distribution scheme used to promote its sale. That commonality was sufficient, in the California Supreme Court's estimation, to establish a "substantial connection" between Bristol-Myers' purposeful marketing and sales activities in the state (giving rise to the resident claims) and the virtually identical claims asserted against Bristol-Myers by the non-resident plaintiffs.

Once it determined that the non-resident plaintiffs satisfied the contacts and relatedness requirements of the minimum contacts test, the California Supreme Court turned to the question of reasonableness. The state high court examined reasonableness from the perspective of the defendant, the plaintiffs, the forum state, and the interstate judicial system's interest in obtaining an efficient resolution of the case.[7] It prefaced this discussion by noting that Bristol-Myers did not contend that the exercise of jurisdiction over it in California would be "fundamentally unfair."[8] It then discussed and balanced each of the four relevant interests and concluded that Bristol-Myers had "failed to carry its burden of showing that the exercise

---

[7] *Id.* at 656-60.

[8] *Id.* at 656.

of personal jurisdiction over it in this matter is unreasonable."[9]

In seeking review in this court, Bristol-Myers couched the question presented as:

> Whether a plaintiff's claims arise out of or relate to a defendant's forum activities when there is no causal link between the defendant's forum contacts and the plaintiff's claims – that is, where the plaintiff's claims would be exactly the same even if the defendant *had no forum contacts*.

Petition for Certiorari, at (i) (emphasis supplied). The last clause of this statement ignores the critical fact that the defendant here had *substantial forum contacts*, contacts that concededly gave rise to the virtually identical claims of the resident plaintiffs. Thus, in our view, the true question before this Court is whether, under the circumstances presented here, the exercise of jurisdiction over Bristol-Myers with respect to the *additional* – but essentially identical – claims of the non-resident plaintiffs is fair, just, and reasonable. Essentially, Petitioner asks this Court to fit the *Bristol-Myers* case to a narrow doctrinal category, rather than try to fit the principle to the case, as justice would instead demand.[10]

---

[9] *Id.* at 660.

[10] Roscoe Pound, *Courts and Legislation*, 7 Am. Pol. Sci. Rev. 361, 365 (1913).

D.

For two reasons, we believe the California Supreme Court's decision was correct as a matter of due process. First, given Bristol-Myers' significant and purposeful contacts with California, the state high court's substantial-connection rationale comports with *International Shoe*'s fluid spectrum of jurisdiction in which the requirement of relatedness varies in intensity with the quality and quantity of the contacts. Specifically, the endorsement of non-causal relatedness when the non-resident's contacts are continuous, systematic and substantial fills the jurisdictional lacuna between cause-bound specific jurisdiction and at-home general jurisdiction. Instead of dissolving jurisdiction into an empty space, as is true of the cause-bound standard, the substantial connection standard permits a form of relatedness that moves seamlessly from specific to general jurisdiction. In short, unlike Petitioner, we think the line between specific and general jurisdiction should be blurred instead of artificially constricted. *See* Brief of Petitioner, at 32-37.

Second, the doctrine of supplemental jurisdiction provides an instructive perspective from which to assess the California Supreme Court's application of the relatedness standard. As is evident, the California Supreme Court's approach to relatedness operates much like the federal doctrine of supplemental jurisdiction. Under that doctrine, a federal court may exercise subject matter jurisdiction over an entire case, including claims over which there is no independent basis of subject matter jurisdiction, so long as that claim arises out

of a "common nucleus of operative facts" with a claim over which there is an independent basis of jurisdiction.[11]

The ultimate determination of supplemental jurisdiction includes both a fact-based and efficiency-driven component of power and a reason-based component of discretion,[12] which is to say that the law of supplemental jurisdiction is a product of fairness and efficiency tempered by reasonableness. More generally, the doctrine is built on a common sense accommodation of litigational convenience and jurisdictional principle that strikes a due process balance among the relevant interests at stake. Thus although supplemental jurisdiction is not technically a doctrine of due process, it is in fact consistent with and conducive to due process.

The flexible model of supplemental jurisdiction translates nicely into the question here presented. The courts of California undoubtedly have jurisdiction over the claims of the resident plaintiffs, and it is equally clear that the claims of the resident and non-resident plaintiffs arise out of a common nucleus of operative facts – the manufacture and nationwide marketing scheme for the drug Plavix. In addition, the consolidated litigation of the resident and non-resident claims will unquestionably promote judicial economy and litigational convenience. Furthermore, as noted, the California Supreme Court carefully surveyed the question

---

[11] United Mine Workers v. Gibbs, 383 U.S. 715, 725 (1966).

[12] 28 U.S.C. §§ 1367(a) & (c).

of reasonableness from all relevant perspectives and concluded that Bristol-Myers, in addition to having made no claim of fundamental unfairness, failed to show that the exercise of jurisdiction over the non-resident claims would be unreasonable. Petitioner has raised no challenge to those findings. In short, the California Supreme Court's analysis was a product of fairness, efficiency, and reasonableness.

The applicability of supplemental-jurisdiction-type principles to the law of personal jurisdiction is now recognized in the emerging common law doctrine of "pendent personal jurisdiction."[13] That doctrine vests federal district courts with the power to exercise personal jurisdiction over a non-resident defendant with respect to a claim for which there is no independent basis of personal jurisdiction so long as that claim "arises out of a common nucleus of operative facts with a claim in the same suit over which the court does have personal jurisdiction." *Action Embroidery Corp. v. Atlantic Embroidery, Inc.*, 368 F.3d 1174, 1180 (9th Cir. 2004). The policy behind this doctrine is expressly premised on due process concerns. As the Ninth Circuit explained in *Action Embroidery*, "We believe that judicial economy, avoidance of piecemeal litigation, and overall convenience of the parties is best served by adopting this doctrine." *Id.* at 1181. In accord with

---

[13] For a lucid discussion of pendent personal jurisdiction and its essential role in the modern law of jurisdiction, see Charles W. "Rocky" Rhodes & Cassandra Burke Robertson, *Toward a New Equilibrium in Personal Jurisdiction*, 48 U.C.D. L. Rev. 207, 243-52 (2014).

those principles and much like supplemental jurisdiction, a court may likewise decline to exercise pendent personal jurisdiction "where 'considerations of judicial economy, convenience and fairness to litigants' so dictate." *Oetiker v. Werke*, 556 F.2d 1, 5 (D.C. Cir. 1977) (citing *United Mine Workers v. Gibbs*, 383 U.S. at 726). Every circuit that has expressly considered the doctrine of pendent personal jurisdiction has endorsed it.[14]

As noted, pendent personal jurisdiction is technically a federal common law doctrine. Yet the due process principles on which it rests – judicial economy, convenience, and fairness – are fully applicable to a state court's exercise of personal jurisdiction. While the California Supreme Court did not purport to apply the doctrine of pendent personal jurisdiction, that court's approach to relatedness and its overall reasoning – as described above – bears a striking resemblance in both theory and practice. As such, the decision is consistent with and conducive to due process. The critical point here is not that this Court should now endorse pendent personal jurisdiction, but

---

[14] *See, e.g.*, Avocent Huntsville Corp. v. Aten Intern. Co., Ltd., 552 F.3d 1324, 1339-40 (Fed. Cir. 2008), *cert. denied*, 557 U.S. 904 (2009); Action Embroidery Corp. v. Atlantic Embroidery, Inc., 368 F.3d at 1180-81 (9th Cir. 2004); United States v. Botefuhr, 309 F.3d 1263, 1272-75 (10th Cir. 2002); Robinson Engineering Co., Ltd. Pension Plan & Trust v. George, 223 F.3d 445, 449-50 (7th Cir. 2000); ESAB Group, Inc. v. Centricut, Inc., 126 F.3d 617, 628-29 (4th Cir. 1997), *cert. denied*, 523 U.S. 1048 (1998); IUE AFL-CIO Pension Fund v. Herrmann, 9 F.3d 1049, 1056-57 (2d Cir. 1993), *cert. denied*, 513 U.S. 822 (1994); Oetiker v. Werke, 556 F.2d at 5 (D.C. Cir. 1977); Robinson v. Penn Cent. Co., 484 F.2d 553, 555-56 (3d Cir. 1973).

that the California Supreme Court's application of relatedness is fully consistent with the due process principles reflected in the recognized parallel doctrine of pendent personal jurisdiction.

E.

The principles of fairness and reasonableness at the heart of due process require, in the context of the minimum contacts test, a showing that the nonresident defendant has engaged in purposeful activity directed at the forum state. The substantial activities of Bristol-Myers in California surely satisfy that standard. Such purposefulness is the necessary first step in assuring that a state will not exercise its judicial power in an arbitrary manner, *i.e.*, in a manner that extends beyond its sovereign prerogative. The doctrinal categories of specific and general jurisdiction, both of which depend on this premise of purposeful contacts, help map out the circumstances where the exercise of that power will presumptively comport with "traditional notions of fair play and substantial justice." But those doctrines are simply shorthand tools for advancing the underlying principles. The California Supreme Court's approach to relatedness bridges the gap between the doctrinally rigid categories of specific and general jurisdiction and, in so doing, honors the fluid concept of due process as applied in the context of personal jurisdiction. Whether one reads the state high court's decision as extending relatedness into the jurisdictional lacuna between specific and general jurisdiction or as implicitly reflecting the doctrine of pendent

personal jurisdiction, there is no doubt that the California court's decision comports with the due process standards of fairness, reasonableness, and a balanced approach to the competing interests at stake.

II. A Decision Reversing the California Supreme Court Would Substantially Curtail Nationwide and Multi-State Class Actions

Endorsement of Petitioner's call for an exclusive proximate cause standard of relatedness will have repercussions well beyond the contours of the immediate case. In the specific context of multi-state and nationwide class actions, the consequences might be dramatic. Except in those cases in which the claims of the named plaintiffs and the claims of every class member arose in the same state (in the sense of causal relatedness), the only available forum would be in the defendant's home state, regardless of whether considerations of fairness, justice, and more generally, reason, would demand otherwise. Petitioner's mechanical approach to jurisdiction would, therefore, frustrate the class action joinder device under Federal Rule of Civil Procedure 23 and prevent it from operating as intended. Thus, the inefficiencies that will occur in this case should this Court reverse – separate cases filed in state and federal courts in a multitude of states – will spread throughout the interstate system of justice. These potential consequences must be taken into

account in the Court's consideration of the formulaic approach to due process endorsed by the Petitioner.

CONCLUSION

We urge this Court to affirm the decision of the California Supreme Court as consistent with the principles underlying this Court's jurisprudence of personal jurisdiction and with the doctrine of pendent personal jurisdiction.

Date: April 7, 2017

Respectfully submitted,

ALLAN IDES
Counsel of Record
919 Albany Street
Los Angeles, California 90015
(323) 793-6845
allan.ides@lls.edu

Attorney for Amici Curiae

APPENDIX: LIST OF *AMICI CURIAE*

Simona Grossi
Professor of Law
Theodore A. Bruinsma Fellow
Loyola Law School Los Angeles

Cassandra Burke Robertson
Professor of Law & Laura B. Chisolm Distinguished Research Scholar
Director, Center for Professional Ethics
Case Western Reserve University School of Law

Jack B. Harrison
Associate Professor of Law
Director of the Center for Excellence in Advocacy
Salmon P. Chase College of Law
Northern Kentucky University

Allan Ides
Christopher N. May Professor of Law
Loyola Law School Los Angeles

David Levine
Professor of Law
UC Hastings College of the Law

Katherine A. Macfarlane
Associate Professor of Law
University of Idaho College of Law

Christopher N. May
Professor of Law Emeritus
Loyola Law School Los Angeles

David B. Oppenheimer
Clinical Professor of Law
Berkeley Law

Charles W. "Rocky" Rhodes
Vinson & Elkins Research Professor & Professor of Law
South Texas College of Law Houston

Adam Zimmerman
Professor of Law
Loyola Law School Los Angeles